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SERVICE DATE – MARCH 22, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-43 (Sub-No. 172X)

ILLINOIS CENTRAL RAILROAD COMPANY–ABANDONMENT EXEMPTION–IN ADAMS COUNTY, MS

Decided: March 20, 2002

By petition filed on December 4, 2001,¹ Illinois Central Railroad Company (ICR) seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a line of railroad known as the Natchez Spur, between milepost LN 94.48 and milepost LN 98.38, a distance of 3.9 miles in Natchez, Adams County, MS.² We will grant the exemption, subject to three environmental conditions and standard employee protective conditions.

BACKGROUND

According to ICR, there are no active shippers on the line. Petitioner states that the only shipper that has used the line in recent years is Titan Tire, which last received service in January 2001 and ceased operations in April 2001. ICR states that it shipped one carload of carbon black to Titan Tire in 2001, 101 carloads in 2000, and 117 carloads in 1999. Petitioner states that no operations or maintenance are currently conducted on the line, and that there is no overhead traffic, as the line deadends at milepost LN 94.48. Finally, ICR states that track and track materials that are salvageable from the abandonment will be used for upgrading and maintaining other active rail lines; the remaining material will be sold as scrap.

DISCUSSION AND CONCLUSIONS

Under 49 U.S.C. 10903, a rail line may not be abandoned without our prior approval. Under 49 U.S.C. 10502, however, we must exempt a transaction or service from regulation when we find that: (1) continued regulation is not necessary to carry out the rail transportation policy of

¹ Notice of the filing was served and published in the Federal Register on December 21, 2001 (66 FR 66014).

² According to petitioner, the southernmost 0.56 miles of the line is ICR terminal trackage and former Natchez & Southern trackage not formally included in ICR's milepost numbering system. The southern boundary of the abandonment is the equivalent of milepost LN 98.38 under the numbering system used on the remainder of the line.

49 U.S.C. 10101; and (2) either (a) the transaction or service is of limited scope, or (b) regulation is not necessary to protect shippers from the abuse of market power.

Detailed scrutiny under 49 U.S.C. 10903 is not necessary to carry out the rail transportation policy. By minimizing the administrative expense of the application process, an exemption will reduce regulatory barriers to exit [49 U.S.C. 10101(7)]. An exemption will also foster sound economic conditions and encourage efficient management by relieving ICR of the cost of owning, maintaining, and operating the line and by allowing ICR to apply its assets more productively elsewhere on its rail system [49 U.S.C. 10101(5) and (9)]. Other aspects of the rail transportation policy will not be affected adversely.

Regulation of the proposed transaction is not necessary to protect shippers from an abuse of market power. There is no overhead traffic and the sole shipper on the line, Titan Tire, has ceased operations and no longer requires rail service. Nevertheless, to ensure that Titan Tire is informed of our action, we will require ICR to serve a copy of this decision on the shipper within 5 days of the service date of this decision, and to certify to us that it has done so. Given our market power finding, we need not determine whether the proposed transaction is limited in scope.

Under 49 U.S.C. 10502(g), we may not use our exemption authority to relieve a carrier of its statutory obligation to protect the interest of its employees. Accordingly, as a condition to granting this exemption, we will impose the employee protective conditions set forth in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

ICR has submitted an environmental report with its petition and has notified the appropriate Federal, state, and local agencies of the opportunity to submit information concerning the energy and environmental impacts of the proposed abandonment. See 49 CFR 1105.11. Our Section of Environmental Analysis (SEA) has examined the environmental report, verified the data it contains, and analyzed the probable effects of the proposed action on the quality of the human environment. SEA served an environmental assessment (EA) on February 1, 2002, and requested comments.

In the EA, SEA indicated that the U.S. Department of Commerce, National Geodetic Survey (NGS), the Mississippi Department of Environmental Quality (MS-DEQ), and the Adams County Board of Supervisors expressed concerns about the effect of the proposed abandonment on the environment. In response, SEA recommended that the following conditions be imposed on any decision granting abandonment authority: (1) ICR shall notify NGS prior to any salvage activities that will disturb or destroy the single survey marker on the right-of-way, and shall allow NGS 90 days from the issuance of any decision granting abandonment authority in this proceeding to survey the rail line for any historical benchmarks or monumentation; (2) ICR shall consult with MS-DEQ regarding specific requirements for verifying that the right-of-way is free of hazardous waste contamination prior to initiation of any salvage activities; and (3) ICR shall consult with the Adams County Board of Supervisors regarding the potential salvage of track materials from Monroe Street prior to initiation of any salvage activities.

ICR filed a comment to the EA in which it indicated that, in SEA's recommended condition (3), ICR should consult with the City of Natchez, MS, in lieu of the Adams County Board of Supervisors. SEA recommends that the suggested change be adopted. Accordingly, we will impose the conditions previously recommended by SEA with this modification. Based on SEA's recommendations, we conclude that the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources. Although SEA has indicated in the EA that, following abandonment, the right-of-way may be suitable for other public use under 49 U.S.C. 10905, no one has sought a public use condition, and none will be imposed.³

It is ordered:

1. Under 49 U.S.C. 10502, we exempt from the prior approval requirements of 49 U.S.C. 10903 the abandonment by ICR of the above-described line, subject to the employee protective conditions set forth in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979), and subject to the conditions that: (1) ICR shall notify NGS prior to any salvage activities that will disturb or destroy the single survey marker on the right-of-way, and shall allow NGS 90 days from the issuance of any decision granting abandonment authority in this proceeding to survey the rail line for any historical benchmarks or monumentation; (2) ICR shall consult with MS-DEQ regarding specific requirements for verifying that the right-of-way is free of hazardous waste contamination prior to initiation of any salvage activities; and (3) ICR shall consult with the City of Natchez, MS, regarding the potential salvage of track materials from Monroe Street prior to initiation of any salvage activities.

2. ICR is directed to serve a copy of this decision on Titan Tire within 5 days after the service date of this decision and to certify to the Board that it has done so.

3. An offer of financial assistance (OFA) under 49 CFR 1152.27(c)(1) to allow rail service to continue must be received by the railroad and the Board by April 1, 2002, subject to the time extensions authorized under 49 CFR 1152.27(c)(1)(i)(C). The offeror must comply with 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1). Each OFA must be accompanied by a \$1,000 filing fee. See 49 CFR 1002.2(f)(25).

4. OFAs and related correspondence to the Board must refer to this proceeding. The following notation must be typed in bold face on the lower left-hand corner of the envelope: **“Office of the Proceedings, AB-OFA.”**

³ Public use requests were due no later than 20 days after publication of notice of the petition in the Federal Register, or by January 10, 2002.

5. Provided no OFA has been received, this exemption will be effective April 21, 2002. Petitions to stay must be filed by April 8, 2002, and petitions to reopen must be filed by April 16, 2002.

6. Pursuant to the provisions of 49 CFR 1152.29(e)(2), ICR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by ICR's filing of a notice of consummation by March 22, 2003, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire. If a legal or regulatory barrier to consummation exists at the end of the 1-year period, the notice of consummation must be filed not later than 60 days after satisfaction, expiration, or removal of the legal or regulatory barrier.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams
Secretary